

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

KIMBERLY ANN SIMMONS

Plaintiff,

v.

**CIVIL ACTION NO.: 3:21-CV-165
(GROH)**

**KILOLO KIJAKAZI,
Acting Commissioner of Social Security,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Michael John Aloï. ECF No. 18. Pursuant to the Local Rules, this civil action was referred to Judge Aloï for submission of a proposed R&R. Judge Aloï issued an R&R on August 23, 2022, recommending that the Plaintiff’s Motion for Summary Judgment [ECF No. 14] be **DENIED** and the Defendant’s Motion for Summary Judgment [ECF No. 17] be **GRANTED**.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of the Plaintiff’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); see Webb v. Califano, 468 F. Supp. 825, 830-31 (E.D. Cal. 1979); see also Snyder v. Ridenour, 889

F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Aloï's R&R were due within fourteen days after entry of the R&R. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(d), 72(b). The Plaintiff's objections were due on or before September 6, 2022. As of the date of this Order, no objections have been filed. Therefore, the Court finds that the deadline to submit objections has passed. Accordingly, this Court will review the R&R for clear error.


In this matter, Judge Aloï found that the Commissioner's decision to deny the Plaintiff's claim for disability insurance benefits does not contain legal error and is supported by substantial evidence. Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Aloï's Report and Recommendation [ECF No. 18] should be, and is hereby, **ORDERED ADOPTED**.

For the reasons more fully stated in the R&R, the Court **FURTHER ORDERS** that the Plaintiff's Motion for Summary Judgment [ECF No. 14] be **DENIED**, the Defendant's Motion for Summary Judgment [ECF No. 17] be **GRANTED**, the decision of the Commissioner be **AFFIRMED** and this case be **DISMISSED WITH PREJUDICE**.

Pursuant to Federal Rule of Civil Procedure 58, the Clerk of Court is **DIRECTED** to enter a separate order of judgment in favor of the Defendant.

The Clerk of Court is **DIRECTED** to **STRIKE** this case from the Court's active docket. The Clerk is further **DIRECTED** to transmit copies of this Order to all counsel of record herein.

DATED: September 13, 2022


GINA M. GROH
UNITED STATES DISTRICT JUDGE